IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

Crl.Rev.Pet.No. 553 of 2000(B)

CRA.171/1995 of ADDL.SESSIONS COURT, KOTTAYAM
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REVN. PETITIONER:

YOOSAFF, VATTAKAPPARAYIL VEEDU,
KULAPPURAM, KOOVAPPALLY.

BY ADV. SRI.B.RAMACHANDRAN
SRI.K.VIJAYACHANDRA MENON

RESPONDENTS:
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1. AGASTHY ABRAHAM,
PANNIYAMMACKAL VEEDU,
PONKUNNAM.

2. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.M.NARENDRA KUMAR
PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO.3090/2000 IN CRL.R.P.NO.553/2000

DISMISSED.

SD/- K.R.UDAYABHANU, JUDGE

20/09/2007

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K.R.UDAYABHANU, J.

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Crl.R.P.No.553/2000

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Dated this the 20th day of September, 2007

O R D E R

The revision petitioner is the accused who stands convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.5,000/- and in default to undergo simple imprisonment for three months.

.2. The prosecution case is that on 01/05/1993, the accused borrowed a sum of Rs.14,000/- from the complainant promissing to repay the same within two months and when the amount was demanded, he issued the impugned cheque dated 07/08/1993, which when presented got dishonoured for want of funds in the account of the accused. The lawyer notice sent demanding payment was not replied to nor was the amount paid.

.3. The evidence adduced in the matter consisted of the testimony of PW.1 and Exts.P1 to P10. There was no defence evidence.

.4. PW.1 the complainant has testified in proof of the prosecution case and has proved the impugned cheque, the dishonour memo, the intimation received, the copy of the lawyer notice and the postal acknowledgment as well as the copy of the ledger extract of the account of the accused. The cheque was dishonoured for want of funds in the account of the accused. It is the defence case that only a sum of Rs.1,000/- was borrowed from the son of the complainant by name Wilson and towards security of the same the impugned cheque was issued and he later repaid Rs.1,500/- at the rate of Rs.10/- per day. The suggestion to the above effect was denied by PW.1.

In the circumstances, I find no reason to interfere in the concurrent findings of the courts below. The conviction is confirmed. All the same, considering the plea of the counsel for the revision petitioner the sentence is modified to imprisonment till the rising of the court and to pay compensation of Rs.14,000/- and in default to undergo simple imprisonment for three months. The revision petitioner is granted two months time to remit the amount of compensation less the amount, if any, deposited. It is submitted that Rs.5,000/- is remitted towards fine, if so, the same is permitted to be withdrawn by the complainant. The revision petitioner shall appear

before the Judicial Magistrate of the First Class-II, Kanjirappally, on 10/12/2007 to receive the sentence.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.R.P.No.553/2000

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O R D E R

20th September, 2007